Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act (19 U.S.C. 1677e(c)), we have determined that the use of best information available (BIA) is appropriate for both Nippon Steel Corp. and Sumitomo Metal Industries, Ltd. Given that neither of the named companies responded to the Department's questionnaire, we find that no respondents have cooperated in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents who cooperate in an investigation, and margins based on more adverse assumptions for those respondents who do not cooperate in an investigation. If a respondent is non-cooperative, that respondent's final margin for the relevant class or kind of merchandise is the higher of either (1) the highest margin in the petition, or (2) the highest calculated margin of any respondent (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value (54 FR 18992, 19033, May 3, 1989)). The Department's two-tier methodology for assigning BIA conditioned on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See *Allied Signal Aerospace Co.* v. *United States,* 996 F.2d 1185 (Fed. Cir. 1993); see also *Krupp Stahl, AG et al.* v. *United States,* 822 F. Supp. 789 (CIT 1993).)

In this investigation, the two respondents refused to cooperate by failing to respond to the Department's questionnaire. Therefore, in accordance with our standard practice, the Department has assigned the highest margin in the petition to both respondents. The assigned BIA margin is the same margin that was assigned for the preliminary determination.

Fair Value Comparisons

To arrive at the BIA margin referred to above, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. See Initiation of Antidumping Duty Investigation of Oil Country Tubular Goods Pipe from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain (59 FR 37962, July 26, 1994).

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act 19 U.S.C. 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of OCTG from Japan, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of OCTG from Japan that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Nippon Steel Corporation	44.20
Sumitomo Metal Industries, Ltd	44.20
All Others	44.20

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: June 19, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

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[A–580–825]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or John Beck, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1766 or (202) 482–3464, respectively.

Final Determination:

The Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Case History

Since the January 26, 1995, preliminary determination (60 FR 6507, February 2, 1995), the following events have occurred.

On February 3, 1995, we issued a supplemental questionnaire to Hyundai Steel Pipe Company, Ltd. (HSP). We received HSP's response on February 27, 1995.

In March 1995, we conducted the sales and cost verifications in Houston, Texas, and Seoul, Korea. We issued the verification reports in April 1995. On May 2 and May 3, 1995, HSP and the petitioners submitted their case briefs, respectively. On May 10, 1995, both parties submitted their rebuttal briefs. A public hearing was held on May 16, 1995.

Scope of Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.60, 7304.20.50.75, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

After the publication of the preliminary determination, we found that HTSUS item numbers 7304.20.10.00, 7304.20.20.00, 7304.20.30.00, 7304.20.40.00, 7304.20.50.10, 7304.20.50.50, 7304.20.60.10, 7304.20.60.50, and 7304.20.80.00 were no longer valid HTSUS item numbers. Accordingly, these numbers have been deleted from the scope definition.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act, we have determined that the use of best information available (BIA) is appropriate for sales of OCTG by Union Steel Manufacturing Company (Union). Given that Union did not respond to the Department's questionnaire, we find that it has not cooperated in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology whereby the Department normally assigns lower margins to those respondents who cooperate in an investigation, and margins based on more adverse assumptions for those respondents who do not cooperate in an investigation. If a respondent is non-cooperative, that respondent's final margin for the relevant class or kind of merchandise is the higher of either 1) the highest margin in the petition, or 2) the highest calculated margin of any respondent (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value (54 FR 18992, 19033, May 3, 1989)). The Department's two-tier methodology for assigning BIA based on the degree of the respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (See *Allied-Signal Aerospace Co.* v. *the United States*, 996 F.2d 1185 (Fed. Cir. 1993); see also *Krupp Stahl AG. et al.* v. *the United States*, 822 F. Supp. 789 (CIT 1993).

In this investigation, Union refused to cooperate by failing to respond to the Department's questionnaire. Therefore, in accordance with our standard practice, the Department has assigned the highest margin in the petition to Union. The assigned BIA margin is the same margin that was assigned for the preliminary determination.

Such or Similar Comparisons

We have determined for purposes of the final determination that the OCTG covered by this investigation comprises a single category of "such or similar" merchandise within the meaning of section 771(16) of the Act. All comparisons of U.S. to third-country [1] sales involved identical merchandise.

Fair Value Comparisons

To determine whether HSP's sales of OCTG from Korea to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP according to the methdology described in our preliminary determination, with the following exceptions as a result of verification:

1. We removed two types of bank charges from the U.S. indirect selling expense calculation and treated them as a direct expense; we included a third type of bank charge in the indirect selling expense calculation (see Comment 7).
2. We recalculated U.S. and non-U.S. indirect selling expenses;
3. We recalculated inventory carrying costs using HSP's revised cost data and the appropriate interest rates (see Comment 6).
4. We recalculated foreign brokerage and handling expenses.
5. We deducted a related party's interest charge from USP (see Comment 8).

Foreign Market Value

As stated in the preliminary determination, we found that the home market was not viable for sales of OCTG and based FMV on sales to Canada.

Cost of Production (COP) Analysis

As we indicated in our preliminary determination, the Department initiated an investigation to determine whether HSP's sales in Canada were made below their COP. In order to determine whether the third-country prices were below the COP, we calculated the COP based on the sum of HSP's reported cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). We did not add duties paid on the coil to the cost of manufacture (COM)(see Comment 3). We made the following adjustments to HSP's COP data:

1. We increased the material costs relating to the settlement received for the purchase of defective coil. We adjusted the settlement amount to account for only that portion that was pertinent to production of the subject merchandise during the POI (see Comment 10);
2. We increased the general and administrative expenses to exclude income and expenses resulting from investment activities of the company (see Comment 11); and
3. We increased the COM to reflect the allocation of overhead on the basis of actual hours rather than standard hours (see Comment 12).

After computing COP, we compared product-specific COP to reported third-country prices that were net of movement charges and direct and indirect selling expenses.

[1] The home market in this case is not viable. Sales to Canada are being used as the basis for FMV and the cost of production analysis.

Results of COP Analysis

In accordance with section 773(b) of the Act, we followed our standard methodology as described in the preliminary determination to determine whether the third country sales of each product were made at prices below their COP.

Based on this methodology, we found that none of HSP's Canadian sales were at prices below the COP.

Third Country Price Comparisons

For third country price to U.S. price comparisons, we calculated FMV according to the methodology described in our preliminary determination, with the following exceptions as a result of verification:

1. We recalculated foreign brokerage and handling expenses.
2. We recalculated U.S. and non-U.S. indirect selling expenses by removing antidumping legal expenses from HSP's calculation.
3. We recalculated inventory carrying costs using HSP's revised cost data and the appropriate interest rates (see Comment 6).
4. We recalculated Canadian credit expenses (see Comment 8).

Currency Conversion

Pursuant to 19 CFR 353.60, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Comment 1—Interested Party Comments: Whether Best Information Available (BIA) Is Appropriate for HSP Based on Transaction-Specific Data Arguments

The petitioners argue that the verification report findings and the record evidence demonstrate that the respondent should have reported vessel-specific (*e.g.*, transaction-specific data) instead of POI average charges and adjustments for its U.S. sales during the POI. In summary, the petitioners maintain that: (1) The respondent was asked for transaction-specific information; (2) the respondent stated that such data would be impossible to provide; (3) the Department verified that the respondent could provide such data; (4) the respondent provided such information at verification; and (5) the transaction-specific data the respondent provided at verification differs from the POI average figures submitted prior to verification. The petitioners maintain that because the respondent could have reported transaction-specific information but failed to do so, the respondent has been uncooperative, significantly impeding the investigation and casting doubt on the reliability of its questionnaire response. The petitioners argue that since the respondent ignored the questionnaire requirement to report transaction-specific information, the Department should resort to the application of adverse BIA.

The respondent maintains that its calculation of weighted-average POI movement expenses for its U.S. sales was reasonable because: (1) It cannot always trace the actual product from Korea to a sale because it does not have access to the records of the stockyard (*e.g.*, an unrelated party) where it stores its OCTG prior to sale; (2) the tracing method outlined in the verification report for determining transaction-specific movement expense data is not always accurate; and (3) sales-specific tracing would have been unduly burdensome. Moreover, the respondent points out that the difference between the transaction-specific movement expenses reviewed at verification and the weighted-average movement expenses reported is *de minimis.* Therefore, the respondent maintains that the Department should accept its movement expense allocation methodology.

DOC Position

We agree with the respondent. We have accepted HPA's average expense reporting methodology because (1) it is representative and non-distortive of transaction-specific data; and (2) it would be contrary to our practice to require an unrelated party that is not a party subject to this proceeding (*i.e.*, the stockyard) to provide information. We disagree with the petitioners that HPA has been uncooperative, that it has significantly impeded the investigation, or that it misled or made misrepresentations to the Department.

The Department's preference is for a respondent to report transaction-specific sales information unless a respondent can demonstrate that doing so is overly burdensome or that its alternative methodology is representative and non-distortive of transaction-specific sales information. (In this case, transaction-specific information is equivalent to vessel-specific information.) HSP's U.S. subsidiary, HPA, maintained from the outset of this investigation that it could not report transaction-specific movement expenses for its sales of OCTG made during the POI because its accounting system does not contain such information. At verification, this statement was clarified to mean that HPA could not physically trace the OCTG through its sales documentation from the vessel, through the stockyard (which is an unrelated party), and then to the ultimate U.S. customer. Though HPA uses stock numbers to record movement of OCTG to and from the stockyard and on sales documentation sent to its U.S. customers, we have determined that HPA used the stock numbers simply as a technique to account for the OCTG it sent to its stockyard (an unrelated party) prior to release to its customers, and for determining what portion of unsold OCTG remained at the stockyard. At no time after HPA had the OCTG delivered to the stockyard from the U.S. port of entry did HPA retain records which would allow it to physically account for the movement of the OCTG from the stockyard to the first unrelated customer.

While the stockyard is required by the American Petroleum Institute (API) to be able to trace, at any time, any piece of OCTG released to HPA's first unrelated customer back to the specific production run, such information could not be confirmed from HPA's accounting system or sales documentation. Only the stockyard's records would likely contain the information to link the actual OCTG removed from a given vessel to an actual HPA sale. However, because the stockyard is an unrelated party to HPA, that information was not obtainable. HPA is therefore correct when it states that its records cannot physically trace the OCTG from the vessel to the customer. For this reason, we do not find that HPA sought to impede the investigation by not providing such data. Thus, the issue of whether it was burdensome for HPA to report transaction-specific information is moot.

Finally, after an analysis of business proprietary data and our findings at verification, we have determined that HPA's methodology of reporting average POI movement expenses is non-distortive and representative of the expenses it incurred during the POI on sales of OCTG. The difference between the vessel-specific movement expenses we requested at verification and the weighted-average movement expenses reported is negligible.

Comment 2—Whether BIA Is Appropriate for HSP Based On Alleged Data Deficiency Arguments

The petitioners maintain that verification revealed several serious deficiencies in the respondent's questionnaire response. For example, the petitioners allege that the respondent incorrectly included movement expenses, bank charges, and antidumping legal expenses in its indirect selling expenses and that there were serious discrepancies between actual production hours and the standard production hours used to allocate costs. The petitioners maintain that the corrections are so numerous and substantial that the data provided by the respondent is unusable, and argue, therefore, that the Department should assign the petition margin as BIA.

The respondent contends that every expense was verified, as the verification reports make clear. In addition, the respondent points out that it produced complete information which was entirely verified by the Department. Therefore, the respondent maintains that the Department should use its response in the final determination and not resort to BIA.

DOC Position

We agree with the respondent. We tested the respondent's sales databases and established that the errors mentioned above were inadvertent and relatively minor. The respondent either brought these errors to our attention, or we discovered them as a result of the respondent providing all requested information. We were able to correct these errors. The errors mentioned above were not ones which lead us to question the reliability of the response. These are the types of errors the Department generally encounters in a typical investigation and it is the Department's normal practice to correct such minor errors for purposes of its analysis and less-than-fair-value calculations. Therefore, we are using the respondent's response in the final determination and not resorting to BIA.

Comment 3—Exclusion of Duties from the COM

The respondent maintains that the Department must exclude duties paid from the COP and exclude duty drawback from the Canadian price because to do otherwise is contrary to Department practice. The respondent cites *Carlisle Tire & Rubber Co.* v. *United States*, 634 F.Suppl. 419, 424 (CIT 1986), and Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from the Korea (55 FR 32659, 32666, August 10, 1990) (Sweaters from Korea) in support of its argument.

The petitioners argue that it would be inappropriate to exclude duties from the COP because the drawback received on a majority of the Canadian sales is different from the duties HSP paid on the imported coil incorporated into the exported pipe.

DOC Position

We agree with the respondent. Our practice, as enunciated in Sweaters from Korea, is to calculate a COP exclusive of duties and compare this COP to a duty-exclusive price. Thus, the fact that there may be a difference between the amount of duty paid and the amount of drawback received is irrelevant because neither amount is used for purposes of the COP test involving third country sales. Consequently, other issues which relate to the duty calculation are moot.

Comment 4—Duty Drawback on U.S. Sales

The petitioners contend that the respondent should have calculated U.S. duty drawback using shipment-specific drawback data instead of the average drawback received on all shipments during the period July-December 1993. They further contend that such reporting would not have been burdensome because the respondent provided this information at verification. In addition, the petitioners assert that the respondent's averaging methodology was not reasonable because it does not accurately capture the correct universe of duty drawback received. Therefore, the petitioners request that the Department deny the allocated duty drawback adjustment to U.S. price.

The respondent maintains that in *Laclede Steel Co.* v. *United States,* Slip Op. 94–160 (CIT 1994) (*Laclede*), the CIT upheld HSP's drawback methodology which is virtually identical to the methodology HSP is using in this instant case. The respondent points out that based on *Laclede*, HSP is not required to perform sales-specific calculations of Korean duty drawback. Moreover, the respondent maintains that it cannot trace the amount of drawback received on a particular exportation of OCTG back to a particular imported coil upon which duty has previously been paid because of the very nature of the Korean drawback system. Additionally, the respondent contends that the issue of whether it would have been burdensome to provide transaction-specific data is irrelevant because there is no relationship between coil inputs to the OCTG exports. Finally, the respondent argues that its allocation methodology is reasonable because the amount of drawback assigned to each vessel bears no relationship to the sales that are made of the OCTG transported on that vessel.

DOC Position

We agree with the respondent. Contrary to the petitioners' assertions, we verified that HSP is unable to trace the amount of drawback received upon a particular exportation of OCTG back to a particular imported coil upon which duty has previously been paid because of the nature of the Korean drawback system. Specifically, the Korean duty drawback system is set up such that HSP is allowed to use a FIFO (first in first out) method in matching import permits for raw materials used to produce OCTG to export permits showing OCTG shipments. When it submits its application for duty drawback, HSP is not required by the Korean government to link the amount it paid in duty for a specific amount of imported coil to the OCTG it actually exported.

However, even if HSP were able to provide transaction-specific amounts for duty drawback, the *Laclede* decision is clear that a respondent is not required to report sales-specific calculations for duty drawback relating to sales in a particular market.

Regarding whether HSP's duty drawback allocation methodology is reasonable, we examined at verification alternative allocation methods HSP could have used. We determined, based on verification, that the methodology HSP selected reasonably allocated its duty drawback amounts and was non-distortive based on the following facts: (1) While HSP cannot determine on a sales specific basis which coil imported actually was used to produce a specific product for export, it can in general determine which coil was used to produce U.S.-destined OCTG and Canadian-destined OCTG; (2) HSP applies for duty drawback in the ordinary course of business by taking the oldest coil import permits and linking them to export permits so that it receives all of the drawback due to it; and (3) there was an insignificant difference between using HSP's method and using an alternative method based on the drawback received on OCTG sold during the POI. Regarding petitioners' request that the duty drawback amount be limited to the actual amount of duties included in CV and the COP, this issue is moot since we have excluded duties from the COP calculation and we are not resorting to CV as a basis for FMV.

Therefore, we are accepting the respondent's duty drawback allocation methodology because it is in accordance with the *Laclede* decision and Department practice.

Comment 5—Dual Prices for Identical Merchandise

The petitioners maintain that the respondent failed to adequately support its claim that it can and does charge two different prices to the same customer for the same product on the same day. Absent evidence to the contrary, the petitioners contend that the real reason for the change in prices may relate to differences in physical characteristics or to market conditions. The petitioners argue that if the Department is not going to resort to BIA, it may have to make a difference-in-merchandise or circumstance-of-sale adjustment.

The respondent maintains that the Department thoroughly examined this issue at verification and found no evidence that HPA charges different prices for the same product based on physical characteristics or market conditions. The respondent contends that the petitioners' statements on this issue are unsupported speculation and should be disregarded.

DOC Position

We agree with the respondent. At verification we examined invoices which contained different prices for the same product specification to the same customer. We found that, in fact, HPA will charge two different prices for identical product from the same stock number to the same customer on the same invoice. In looking at how the continuous negotiation process between HPA and its customers works (which is described in the ESP verification report), export documentation from Korea, and import documentation into the United States, we find no reason to suspect that HPA is mislabelling a product's physical characteristics in the invoice. Therefore, we have accepted HPA's reported prices and used them in our analysis.

Comment 6—U.S. Inventory Carrying Costs

HSP sells the OCTG to Hyundai Corporation (HC), a related party (also in Korea), which in turns sells the OCTG to Hyundai Pipe of America (HPA), HSP's U.S. subsidiary.

The petitioners maintain that when HSP calculated U.S. inventory carrying costs, it should have used the won-denominated interest rate applicable while the merchandise was in Korea and then used HC's interest rate before the merchandise entered HPA's inventory.

The respondent contends that the Federal Circuit's decision in *LMI-LaMetalli Industriale* v. *United States,* 912 F.2d 455 (1990), requires that HSP use its subsidiary's, HPA's, U.S. interest rate.

DOC Position

We agree with the petitioners. Respondent's use of the U.S. interest rate to calculate its inventory carrying costs is not in accordance with Department practice (see Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand (60 FR 10552, February 27, 1995), and the September 24, 1994, memorandum in that case from Susan Kuhbach, Director, Office of Countervailing Duty Investigations to Barbara R. Stafford, Deputy Assistant Secretary for Investigations). The Department's current practice is to use the interest rate denominated in the currency of the transaction.

A company selling in a given currency (such as sales denominated in dollars) is effectively lending to its purchasers in the currency in which its receivables are denominated (in this instance in won and dollars) for the period from shipment of its goods until the date it receives payment from its purchaser. Thus, when sales are made, and future payments are expected, in a given currency, the measure of the company's extension of credit should be based on an interest rate tied to the currency in which its receivables are denominated. This recognizes both the time value of money and the effect of currency fluctuations on repatriating revenue. Such an approach comports with the Federal Circuit's decision in *LMI-La Metalli,* wherein the court noted that ''[i]f the cost of credit is imputed in the first instance to conform with commercial reality, it must be imputed on the basis of usual and reasonable commercial behavior.'' 912 F.2d at 461.

In this instance, HSP sold the merchandise in Korea to the Korean company HC in a won-denominated transaction. In turn, HC sold the merchandise to HPA, the U.S. affiliate, in a dollar-denominated transaction. Finally, HPA sold the merchandise to the first unrelated U.S. customer in a dollar-denominated transaction. Accordingly, we have used (1) the Korean interest rate during the period from production to HSP's sale of the merchandise; and (2) HPA's U.S. interest rate during the period it was held by HPA. For the period of time between HC's purchase of the merchandise and its sale of the merchandise to HPA, we have used an actual expense and not the imputed expense (see Comment 8 for a further discussion).

Comment 7—HPA's Bank Charges

The respondent maintains that the three types of bank charges which it included in its U.S. indirect selling expense calculation are not direct expenses because they cover shipments which include both OCTG and non-subject merchandise. Therefore, the respondent contends that the bank charges are not directly associated with individual products.

The petitioners maintain that the bank charges at issue are direct expenses for both OCTG and non-subject merchandise and can be attributed to specific shipments. Moreover, even though in some cases the charge must be allocated between OCTG and non-subject merchandise within a particular shipment, the charge is still a direct expense because it is a charge HPA incurs regardless of what product is sold.

DOC Position

We agree in part with the petitioners. The respondent incurs the following three types of bank charges on U.S. sales of OCTG: (1) Charges for opening a letter of credit (*e.g.,* L/C open commission); (2) charges for an analysis of its bank account (*e.g.,* account analysis charge); and (3) charges from the bank for checking the sales documents for HPA (*e.g.,* a negotiation commission). Based on our verification findings, it is clear that the account analysis charges are indirect selling expenses because they are not associated with the direct sale of OCTG. As for the L/C open commission, it is a telex charge for opening a letter of credit for each sale. Therefore, it is a direct selling expense. Regarding the negotiation commissions, these are expenses associated with the transfer of sales documentation from HC to HPA and are directly related to the sale of the subject merchandise, as well as non-subject merchandise, because these commissions are the fees that HPA's bank charges HPA for reviewing the sales documentation between HC and HPA. Moreover, HPA's bank determines the amount of the charge based on a percentage of the value of the merchandise. Therefore, we have included the account analysis charges as part of HPA's U.S. indirect selling expense calculation. However, we have removed the negotiation commissions and letter of credit fees from the indirect selling expense calculation and treated these as direct selling expenses. We allocated these direct expenses between the OCTG and the non-subject merchandise based on a percentage of the sales values between HC and HPA.

Comment 8—HC's Interest Charges

HSP reported that it ''sells'' the OCTG to HC, which in turn ''sells'' the OCTG to HPA, HSP's U.S. subsidiary. The respondent maintains that HC pays a certain percentage of the transfer price in interest charges to compensate the Korean bank for the time value of the money resulting from the time lag between the Korean bank's payment to HC and the payment to the Korean bank from the U.S. bank. HSP maintains that these interest charges to finance the internal movement within Hyundai of OCTG while in physical transit from Korea to the United States. Therefore, the respondent contends that, because HPA makes ESP sales out of its U.S. inventory, HC's interest charges cannot be associated with goods which are subject to a later sale.

The respondent contends that this interest charge calculated by HSP is duplicated by HPA's inventory carrying cost calculation and HSP's Canadian credit expense calculation because it compensates the Korean bank for the short delay in HC's receipt of payment under the letter of credit posted by HPA. The respondent also contends that this type of charge is included in HPA's indirect selling expenses and therefore must be removed from them. Otherwise, the respondent maintains that the Department is double counting this expense.

The petitioners maintain that the interest charges and inventory carrying costs must be fully and separately reported and deducted from U.S. price.

DOC Position

We agree in part with the respondent. Based on verification of HPA's ESP sales process, we have determined that HC's interest charges cannot be specifically traced to the U.S. sale of OCTG to the first unrelated customer. Therefore, this charge is clearly associated with the internal movement of the subject merchandise from Korea to the United States and not associated with a specific sale. Accordingly, we have treated this expense as an indirect selling expense in the final determination.

Regarding the respondent's claim that an imputed amount capturing the delay in payment must be deducted from inventory carrying expense and/or credit expense, HPA's bank will not pay HC's bank until HPA provides the shipment documents received after receipt of the OCTG from HC. Therefore, we find that the interest charge is associated with the delay in payment between HC's bank and HPA's bank and that this is a result of the time delay between when HC releases the OCTG and when HPA receives the OCTG. We find that the interest charge represents part of the inventory carrying expense calculation and does not represent an additional expense. Since the deduction of both this interest charge and the time during which the OCTG is in HC's inventory would represent double counting, we have removed the inventory days during which the OCTG is in HC's inventory from the inventory carrying expense calculation.

Regarding the respondent's claim that HC's interest charge amount must be deducted from HPA's indirect selling expenses, we disagree because HC's expenses are not captured in HPA's indirect selling expenses calculation.

Finally, regarding the respondent's claim that the interest charge (which is also incurred on Canadian sales of OCTG), is duplicated by HSP's Canadian credit expense calculation, HPA's bank will not pay HC's bank until the Canadian customer pays HPA and this transaction occurs after the customer receives the shipment documents. However, HC's bank will still pay HC based on the letter of credit opened by HPA, and HC's bank will charge HC an interest charge for the advance receipt of the value of the OCTG. Therefore, we find that the interest charge is an actual credit expense which is associated with receiving payment for the OCTG before the Canadian customer pays HPA for the OCTG. Although this interest charge does not cover the entire credit period (*e.g.*, shipment from Korea until HPA's receipt of payment from the Canadian customer), we have accounted for the additional credit period by imputing a credit expense which is based on the use of HPA's interest rate and the difference between HPA's and HC's sales prices of OCTG to the U.S. market.

Comment 9—Packing Expense

The petitioners contend that HSP has improperly applied its conversion factor to packing expenses. Specifically, the petitioners allege that since HSP allocated packing costs over the total tonnage of OCTG sold rather than produced, it was unnecessary to use a conversion factor to determine the expenses. The actual packing costs have already been allocated on a theoretical weight basis.

The respondent maintains that verification demonstrated that HSP allocated packing costs over the total actual volume of small pipe sales, and then applied a conversion factor to restate the costs on a nominal weight basis.

DOC Position

We agree with the respondent. We find that HSP did not use its conversion factor twice to determine its packing expenses. Verification demonstrated that HSP applied a conversion factor to the actual tonnage of OCTG produced to determine its packing costs. HSP used the quantity figures from its inventory ledger, (which record the actual tonnage), and not its sales ledger, as the basis for its packing expense allocation methodology. Therefore, we have accepted HSP's packing expense methodology.

Comment 10—Settlement Adjustment on Defective Coil Purchase

The petitioners argue that some of the coils on which HSP received settlement for defective material were consumed before the POI. Accordingly, the petitioners maintain that only the settlement revenue received by HSP and associated with coil consumed in the POI should be used to offset materials.

The respondent argues that it received all the settlement payment, which was to compensate HSP for defective material, during the POI, and that it should be offset against HSP's POI coil cost.

DOC Position

We agree with the petitioners. We found at verification that some of the defective material was used in production in 1993. The actual material cost for the POI equals the total net amount paid. This amount equals the amount paid on the material used during the POI, less the proportional amount of the settlement. In January 1994, HSP knew the amount it would receive and it knew the specific materials associated with the settlement. Therefore, we have adjusted the settlement amount for defective material to account for the production that occurred prior to the POI, and have considered only that portion of the settlement pertinent to production during the POI.

Comment 11—Adjustment of G&A Calculation

The petitioners argue that the gains and losses on investment securities and other investment related expense and income items should be excluded from the calculation of general and administrative (G&A) expenses. They contend that all non-operating items must be excluded from the SG&A calculation.

The respondent states the inclusion of investment related items is consistent with its financial statements.

DOC Position

We agree with the petitioners. The Department's practice has been not to include investment-related gains, losses and expenses in the calculation of G&A for purposes of COP or CV calculations. The Department's purpose in COP and CV situations is to determine the cost to produce the subject merchandise. The cost to produce the subject merchandise does not include unrelated production or investment activities. The Department accounts for investment activities which relate to financing a company's working capital as part of the financial expense. The financial expense is calculated on a consolidated company-wide basis. Therefore, we have recalculated G&A expenses by excluding HSP's company-wide investment related items.

Comment 12—Allocation Based on Standard Vs. Actual Hours for Overhead

The petitioners argue that the respondent, by using standard hours rather than actual hours for the allocation of overhead, has miscalculated the allocation of actual costs between subject and non-subject merchandise. The petitioners further argue that if the overhead costs cannot be recalculated on the basis of actual hours, then the submitted cost data should be rejected.

The respondent argues that in Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From the Republic of Korea (57 FR 42942, September 17, 1992) (Circular Pipe), the Department did not question the use of standard hours as the basis for the allocation of fabrication costs, only depreciation and G&A expenses. The respondent states that, in the instant case, the standard hours approximate the actual hours which were provided at verification. In any event, the respondent provided actual hours.

DOC Position

We agree with the petitioners. The Department's strong preference is to use actual costs for purposes of calculating COM whenever possible. See Final Determination of Sales at Less Than Fair Value: Fresh Chilled Atlantic Salmon from Norway (58 FR 37915, July 14, 1993). After a thorough review of Circular Pipe, it is clear that neither party raised the issue regarding the use of standard hours. Since HSP reported actual hours and we verified these hours, we applied the actual hours to the actual variable and fixed overhead costs to calculate the COM.

Comment 13—Double Use of Conversion Factor

The petitioners argue that HSP has applied the conversion factor which converts the costs of production from an actual to nominal basis, twice: First to material costs and then to total COP and CV. The petitioners maintain that this action causes costs to be understated.

The respondent states that it applied the conversion factor only once at the end of the total cost calculation.

DOC Position

We agree with the respondent that the conversion factor was applied only once. An examination of the cost verification exhibits show that the conversion factor was applied once to the actual material costs to derive the nominal material costs which were then converted to nominal terms. Thus, we agree with the respondent that no adjustment has to be made.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act (19 USC 1673b(d)(1)), we directed the Customs Service to suspend liquidation of all entries of OCTG from Korea, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995.

The Customs Service shall require a cash deposit or posting of a bond equal to the estimated dumping margin, as shown below for entries of OCTG from Korea that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin percentage
Hyundai Steel Pipe Company, Ltd	00.00
Union Steel Manufacturing Company	12.17
All Others	12.17

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20.

Dated: June 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15620 Filed 6–27–95; 8:45 am]

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[A–201–817]

Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 28, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck or Jennifer Stagner, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3464 or (202) 482–1673, respectively.

Final Determination:

Department of Commerce (the Department) determines that oil country tubular goods (OCTG) from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination on January 26, 1995, (60 FR 6510, February 2, 1995), the following events have occurred.

In March and April 1995, the Department verified the cost and sales questionnaire responses of Tubos de Acero de Mexico, S.A. (TAMSA).